

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:20-CV-00002-FDW**

NICOLE BALLARD BERRY,

Plaintiff,

v.

ANDREW M. SAUL,

Defendant.

ORDER

THIS MATTER is before the Court on Plaintiff's Consent Motion for Attorney Fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). (Doc. No. 18). For the reasons stated in the uncontested motion, it is GRANTED.


On October 29, 2020, the Court remanded this case for further administrative proceedings. (Doc. No. 16). Pursuant to Shalala v. Schaefer, Plaintiff is the prevailing party by virtue of remand. 509 U.S. 292, 300-02, 113 S. Ct. 2625, 125 L. Ed. 2d. 239 (1993). Under the EAJA, a court has the power to award fees to a prevailing party, other than the United States, incurred by that party in a civil action against the United States. 28 U.S.C. § 2412(d)(1)(A); see also Pierce v. Underwood, 487 U.S. 552, 565, 108 S. Ct. 2541, 101 L. Ed. 2d 490 (1988) (finding that a court will award attorney's fees unless it finds that the United States was "substantial justified" in its position).

Here, Plaintiff filed the Consent Motion for Attorney Fees on January 15, 2021. (Doc. No. 18). The parties have agreed the Commissioner of Social Security should pay the sum of \$6,189.56 in fees to compensate Plaintiff's counsel 32.5 hours of work expended on obtaining a favorable result for Plaintiff in this Court. (Doc. No. 18, p. 1).

IT IS THEREFORE ORDERED that Plaintiff's Consent Motion for Attorney Fees (Doc. No. 18) is GRANTED. The Commissioner of Social Security shall pay to Plaintiff the sum of \$6,189.56 in attorney's fees.

IT IS SO ORDERED.

Signed: January 26, 2021


Frank D. Whitney
United States District Judge

